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this Memorandum Decision shall not be  
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establishing the defense of res judicata,  
collateral estoppel, or the law of the case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN RE:	)	
C.A.L., a child alleged to be a delinquent child,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 07A01-0511-JV-531
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE BROWN CIRCUIT COURT  
The Honorable Judith A. Stewart, Judge  
Cause No. 07C01-0310-JD-89, 07C01-0310-JD-99, and 07C01-0505-JD-57

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**August 29, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**DARDEN, Judge**

## STATEMENT OF THE CASE

C.A.L. appeals the juvenile court's order that he be committed to the Indiana Department of Correction (the "DOC").

We affirm.

## ISSUE

Whether the juvenile court erred in modifying the dispositional decree based upon a petition for modification filed subsequent to C.A.L.'s probationary period.

## FACTS

In October of 2003, the State filed a petition under cause number 07C01-0310-JD-0089 ("Cause No. 03-89"), alleging C.A.L.'s delinquency for committing an act that would constitute battery, as a class B misdemeanor, if committed by an adult; the State also filed another petition under cause number 07C01-0301-JD-0099 ("Cause No. 03-99"), alleging C.A.L.'s delinquency for committing an act that would constitute theft, as a class D felony, if committed by an adult. On November 21, 2003, the juvenile court held an admission hearing on Cause Nos. 03-89 and 03-99. C.A.L. admitted the allegations in the petitions, and the juvenile court adjudicated C.A.L. a delinquent child on that basis. The juvenile court then ordered a suspended commitment to the DOC and ordered that C.A.L. be placed in a residential facility.

On August 12, 2004, the juvenile court held a review hearing on Cause Nos. 03-89 and 03-99. On August 17, 2004, the juvenile court entered an order continuing C.A.L.'s suspended commitment to the DOC, placing C.A.L. on probation for six months and releasing C.A.L. from the residential facility into his grandparents' care. In addition to the

standard conditions of probation, the juvenile court ordered C.A.L. to “participate in home-based case management”; “participate in counseling”; and “remain enrolled in school with passing grades[.]” (App. 60).

On February 25, 2005, C.A.L.’s probation officer filed a petition for modification of dispositional decree under Cause Nos. 03-89 and 03-99, alleging that C.A.L. “committed the offenses of Resisting Law Enforcement, Theft, and Truancy in Brown County” on or about January 7, 2005. (App. 18). A petition alleging delinquency for those offenses, however, had not been filed as of February 25, 2005. The petition for modification also alleged that C.A.L. violated the terms of his probation by being expelled from school “effective February 21, 2005,” failing to complete counseling, testing positive for marijuana on or about January 24, 2005, and failing to inform his probation officer that he “was involved with the Nashville Police Department” on or about February 2, 2005. (App. 18, 19).

The juvenile court held a fact-finding hearing on the petition for modification on May 11, 2005. C.A.L. admitted to being expelled from school, failing to complete counseling, and testing positive for marijuana; he denied the remaining allegations. Given his admissions, the juvenile court found that C.A.L. had violated the terms of his probation.

On May 27, 2005, the State filed a petition under cause number 07C01-0505-JD-0057 (“Cause No. 05-57”), alleging C.A.L. to be a delinquent for committing acts that would constitute conversion, as a class A misdemeanor, and resisting law enforcement, as a class A misdemeanor, if committed by an adult on January 7, 2005. On June 29, 2005, C.A.L. admitted to the conversion allegation, and the juvenile court adjudged him to be a delinquent

child.

On September 28, 2005, the juvenile court held a joint dispositional hearing on Cause No. 05-57 and a modification hearing on Cause Nos. 03-89 and 03-99. During the hearing, the juvenile court *sua sponte* expressed the following concern:

[T]he juvenile's probation was extended . . . after he was released from White's for six months. And that order began on August 17<sup>th</sup> of [2004]. If I add a hundred and eight days to that, it looks like probation should have terminated on February 13<sup>th</sup> of [2005]. And then a petition for modification alleging the violations occurring within that six month term of probation was filed, but not until February 25<sup>th</sup>, shortly after the term of probation ended.

(Tr. Vol. III 27). After hearing counsels' arguments regarding whether the petition for modification was filed timely, the juvenile court concluded that "the modification petition filed in February alleging the violations occurring while the juvenile was still within the six month term of probation . . . were [sic] timely filed." (Tr. Vol. III 27-28). On September 29, 2005, the juvenile court entered a dispositional order on Cause Nos. 03-89, 03-99 and 05-57, wherein it found that

[C.A.L.] admitted the delinquent act of conversion charged in Cause No. [05-57], the Court found that the child did commit the said delinquent act, a Class A misdemeanor: The child was previously found to have violated probation by failing to remain in school, failing to complete counseling and failing a urine drug screen.

(App. 12, 56, 97). The juvenile court then ordered that C.A.L. be committed to the DOC for placement in a correctional facility for juveniles "for the shortest duration appropriate for [C.A.L.'s] rehabilitation." (App. 13).

### DECISION

C.A.L. asserts the juvenile court erred in modifying the dispositions under Cause Nos.

03-89 and 03-99. C.A.L. argues the juvenile court lacked jurisdiction to modify the dispositional decrees because the petition for modification was filed subsequent to the expiration of C.A.L.'s probation.

A revocation of probation "should be treated as a modification of the original order." T.C. v. State, 839 N.E.2d 1222, 1225 (Ind. Ct. App. 2005). A juvenile court may modify a dispositional decree as long as it maintains jurisdiction. Ind. Code § 31-37-22-1 ("While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree . . . ."); J.J.M. v. State, 779 N.E.2d 602, 607 (Ind. Ct. App. 2002).

Regarding jurisdiction, Indiana Code section 31-30-2-1 provides in relevant part:

The juvenile court's jurisdiction over a delinquent child or a child in need of services and over the child's parent, guardian, or custodian continues until:  
(1) the child becomes twenty-one (21) years of age, unless the court discharges the child and the child's parent, guardian, or custodian at an earlier time; or  
(2) guardianship of the child is awarded to the department of correction.

As to a discharge, the juvenile court shall discharge the child "[w]hen the juvenile court finds that the objectives of the dispositional decree have been met[.]" I.C. § 31-37-20-7.

In this case, there was no discharge, C.A.L. had not yet turned twenty-one years of age, and guardianship over C.A.L. had not been awarded to the DOC. Thus, the juvenile court maintained jurisdiction. Accordingly, the juvenile court did not err in modifying the dispositional decree to revoke C.A.L.'s probation.

Affirmed.

RILEY, J., and VAIDIK, J., concur.